

Application No. 09/423,131  
Amendment "H" dated July 27, 2005  
Reply to Office Action mailed April 29, 2005

### REMARKS

These remarks and the accompanying amendments are responsive to the Office Action dated April 29, 2005, having a shortened statutory period that expires on July 29, 2005 (hereinafter referred to as the "Office Action"). Claims 3-8, 10, 20 and 24-26 were pending at the time of the last examination and remain pending, albeit with some amendments made herein to Claims 3, 24 and 25.

Section 2 of the Office Action objected to a type in Claim 25. Claim 25 is appropriately amended herein to address this objection.

Section 3 of the Office Action rejected Claims 3 and 20 under 35 U.S.C. 112, second paragraph, as being indefinite. The specific antecedent basis issue with respect to Claim 3 has been addressed by the amendment herein to Claim 3. A similar amendment was made to Claim 24 to address a similar antecedent basis issue. Claim 20 was rejected solely due to its dependency from Claim 3. Accordingly, the rejection should be withdrawn in light of the amendments made herein.

Section 6 of the Office Action rejected Claims 4, 8, 10, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over United States patent number 5,978,380 issued to Kobayashi et al. (hereinafter, Kobayashi) in view of United States patent number 6,192,031 issued to Reeder et al. (hereinafter, Reeder).

Regarding claims 4, 10, 25 and 26, the Office Action asserts (in pages 5-6) that 1) Kobayashi discloses all the subject matter of the claimed invention with the exception of the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data, 2) Reeder teaches that it is known to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data (column 4,

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lines 11-27), and 3) the present invention of claims 4, 10, 25 and 26 is obvious over Kobayashi and Reeder.

However, more precisely, as recited in each of claims 4, 10, 25 and 26, traffic control for data is carried out in a traffic monitoring period (i.e., cycle) defined by taking account of a period proper to the data at which the data takes place in a burst mode.

The portion of Reeder to which the examiner referred (column 4, lines 11-27) only discloses that monitoring is carried out in a suitable period. That is, it does not disclose a traffic monitoring period (cycle) defined by taking account of a period (cycle) proper to the data at which the data takes place in a burst mode

Since Reeder and Kobayashi do not disclose this recited feature of each of the rejected independent Claims 4, 10, 25 and 26, Claims 4, 10, 25 and 26 are not unpatentable over Kobayashi in view of Reeder. Claim 8 is not unpatentable over this combination for at least the same reasons provided for Claim 4, from which it directly depends.

Accordingly, the 35 U.S.C. 103(a) rejection should be withdrawn. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 27<sup>th</sup> day of July, 2005.

Respectfully submitted,



ADRIAN J. LEE  
Registration No. 42,785  
Attorney for Applicant  
Customer No. 022913

AJL:ds  
DS0000003787V001